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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,343	02/26/2004	Guy Hubert Stephane Sylvain Culeron	AA-615M3	3968

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

DOUYON, LORNA M

ART UNIT.	PAPER NUMBER
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1751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/787,343

Applicant(s)

STEPHANE SYLVAIN CULERON
ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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1. This action is responsive to the amendment filed on November 13, 2006.
2. Claims 1-9, 11-15 are pending.
3. Claims 1-9, 11-15 **stand** provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 and 11-15 of copending Application No. **10/787,266** in view of Van Dijk et al. (US Patent No. 5,663,136) for the reasons set forth in the previous office actions.
4. Claims 1-2, 4, 6-8, 11-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Loth et al. (US Patent No. 5,075,026), hereinafter "Loth" for the reasons set forth in the previous office action.
5. Claim 3 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Loth in view of Fowler et al. (US Patent No. 5,635,469) hereinafter "Fowler" for the reasons set forth in the previous office action.
6. Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Loth in view of Baeck et al. (US Patent No. 5,679,630), hereinafter "Baeck" for the reasons set forth in the previous office action.

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7. Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Loth as applied to the above claims, and further in view of Boehm et al. (US Patent No. 3,422,993), hereinafter "Boehm" for the reasons set forth in the previous office action.

Response to Amendment

8. The declaration under 37 CFR 1.132 filed November 13, 2006 is insufficient to overcome the rejection based upon Loth, Loth in view of Fowler, Baeck, or Boehm as set forth in the last Office action because: the showing is not commensurate in scope with the claims. First of all, Loth, in col. 13, lines 45-48, teaches that "...the liquid compositions can be packaged under pressure in an aerosol container or in a pump-type sprayer for the so-called spray-and-wipe type of application". In the showing, Applicants referred to the "pump-type sprayer" of Loth as a "trigger action type sprayer" such as that sold with hard surface cleaning products such as Mr. Clean® Antibacterial MultiSurface (shown in Attachment 1) or similar to the sprayers shown in US 4,527,741 or US 4,155,487 as shown in paragraph 4 of the declaration. However, none of these sprayers are identified or specifically disclosed in Loth to make a meaningful side-by-side comparison. There are many pump-type sprayers, in the market, and such sprayers include foam trigger-type dispensers. Secondly, in paragraph 5 of the declaration, Applicants allege that the compositions similar to those discussed in the present application in Example 2 (A) - (E) and (G) were used but did not specify which formulation was exactly used for the showing used in the Table on page 3 of the declaration. There seemed to be only one formulation used in the Table and it is not

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clear whether the same formulation is used for the tests. Lastly, the showing is not commensurate in scope with the claims. The sprayer providing the 7.28 ml/g foam to weight ratio in the showing is limited to the specific sprayer of Example 1 in the specification, which particular sprayer is not disclosed in the present claim 1. In addition, said weight ratio is true for the specific ingredients used, which ingredients were not specified in the showing.

Response to Arguments

9. Applicant's arguments filed November 13, 2006 have been fully considered but they are not persuasive.

With respect to the obviousness rejection based upon Loth, Applicants argue that, as discussed in the declaration, one of skill in the art would not equate a pump-type dispenser disclosed in Loth with the foam-generating dispenser required by the present claims.

The response to the declaration above apply here as well.

With respect to the obviousness rejection based upon Loth in view of Fowler, Baeck, or Boehm, Applicants argue that Loth does not establish a *prima facie* case of obviousness as discussed above and therefore does not teach or suggest all of the claim limitations of claim 3, 5 or 9, respectively.

The response above apply here as well.

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10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

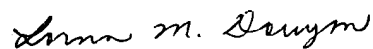
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lorna M. Douyon
Primary Examiner
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